

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

V.

DAVID MICHAEL NAVARRO,

Defendant.

CASE NO. CR13-5525 BHS

ORDER DENYING EX PARTE STATUS

This matter comes before the Court on the Government's ex parte application

(Dkt. 22).

On September 20, 2013, the Government filed an ex parte application under the

All Writs Act. *Id.* On October 15, 2013, the Court held a hearing and set a briefing

schedule on the issue of whether the application should proceed ex parte. Dkt. 30. On

October 17, 2013, the Government filed a memorandum in support of ex parte status.

Dkt. 33. On October 23, 2013, Defendant filed a memorandum in opposition. Dkt. 3

1 “[I]n our system, adversary procedures are the general rule and ex parte
2 examinations are disfavored.” *United States v. Kenney*, 911 F.2d 315, 321 (9th Cir.
3 1990).

4 In this case, the Government has failed to provide a sufficient reason for the Court
5 to consider the application ex parte. The factually unsupported argument that Defendant
6 could destroy evidence contained on a phone currently in the Government’s possession is
7 not persuasive; this is not an ex parte request for a search warrant. Therefore, the
8 Government shall either unseal the application (Dkts. 22 & 23) or provide Defendant
9 with a copy. A response, if any, shall be filed no later than November 1, 2013. A reply,
10 if any, shall be filed no later than November 6, 2013.

11 Dated this 25th day of October, 2013.

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17 BENJAMIN H. SETTLE
18 United States District Judge
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